

By: Kuempel

H.B. No. 2508

Substitute the following for H.B. No. 2508:

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C.S.H.B. No. 2508

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of tow truck companies,  
tow truck operators, vehicle storage facilities, and vehicle  
storage facility employees, the regulation of parking facilities  
and parking facility owners, and the elimination of required state  
licensing for vehicle booting companies and operators.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. LICENSING AND REGULATION OF TOWING, BOOTING, AND

VEHICLE STORAGE

SECTION 1.01. Section 2303.002, Occupations Code, is  
amended by amending Subdivisions (1), (5), and (8) and adding  
Subdivision (4-a) to read as follows:

(1) "Abandoned nuisance vehicle" means a motor vehicle  
that is[÷

~~[(A) at least 10 years old, and~~

~~[(B)]~~ of a condition only to be crushed  
~~[demolished, wrecked,]~~ or dismantled.

(4-a) "Incident management scene" means the location  
on a public or private roadway or right-of-way of a traffic accident  
or incident requiring services, equipment, repair, or cleanup to  
return the location to its intended use.

(5) "Owner of a vehicle" means a person:

(A) named as the purchaser or transferee in the  
certificate of title issued for the vehicle under Chapter 501,

Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable;

(B) in whose name the vehicle is titled ~~[registered]~~ under Chapter 501 ~~[502]~~, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable, or a member of the person's immediate family;

(C) who holds the vehicle through a lease agreement;

(D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or

(E) who is a lienholder, holds an affidavit of repossession, and is entitled to repossess the vehicle.

(8) "Vehicle storage facility" means a garage, parking lot, or other facility that is:

(A) owned by a person other than a governmental entity; and

(B) used to store ~~[or park]~~ at least 10 vehicles each year.

SECTION 1.02. Section 2303.003(a), Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) a vehicle stored ~~[or parked]~~ at a vehicle storage facility with the consent of the owner of the vehicle; or

(2) unless the vehicle was towed from an incident management scene, a vehicle stored at a vehicle storage facility as a result of a consent tow, as defined by Section 2308.002.

SECTION 1.03. Subchapter A, Chapter 2303, Occupations Code,

is amended by adding Section 2303.004 to read as follows:

Sec. 2303.004. GOVERNMENTAL CONTRACT CONTROLS. Unless specifically provided otherwise, this chapter does not control over a contract with a governmental entity to provide services for incident management towing, as defined by Section 2308.002.

SECTION 1.04. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. GENERAL POWERS AND DUTIES ~~[RULEMAKING; LICENSE REQUIREMENTS]~~. The executive director or commission, as appropriate, may take action necessary to administer and enforce ~~[shall adopt rules that:~~

~~[(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles;~~

~~[(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;~~

~~[(3) govern the administration of]~~ this chapter.

SECTION 1.05. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Section 2303.0511 to read as follows:

Sec. 2303.0511. RULES; DENIAL OF CERTAIN APPLICATIONS; STANDARDS OF CONDUCT. (a) The commission shall adopt rules for the licensing of a person to operate a vehicle storage facility.

(b) The commission shall adopt rules for the denial of a license application if the applicant, a partner, principal, officer, or general manager of the applicant, or another potential license holder of the license for which the application is made has:

1           (1) before the date of the application, been convicted  
2 of or has pleaded guilty or nolo contendere to:

3                   (A) a felony; or

4                   (B) a misdemeanor punishable by confinement in  
5 jail or by a fine in an amount that exceeds \$500;

6           (2) violated an order of the commission or executive  
7 director, including an order for sanctions or administrative  
8 penalties;

9           (3) failed to submit a license fee or permit bond in an  
10 amount established by the commission; or

11           (4) knowingly submitted false or incomplete  
12 information on the application.

13           (c) The commission by rule shall adopt standards of conduct  
14 for license holders under this chapter.

15           SECTION 1.06. The heading to Section 2303.053, Occupations  
16 Code, is amended to read as follows:

17           Sec. 2303.053. RULES REGARDING PAYMENT OF FEE TO  
18 DEPARTMENT.

19           SECTION 1.07. Section 2303.053(a), Occupations Code, is  
20 amended to read as follows:

21           (a) The commission may adopt rules regarding the method of  
22 payment of a fee to the department under this chapter.

23           SECTION 1.08. The heading to Section 2303.056, Occupations  
24 Code, is amended to read as follows:

25           Sec. 2303.056. PERIODIC [~~AND RISK-BASED~~] INSPECTIONS.

26           SECTION 1.09. Section 2303.058, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2303.058. ADVISORY BOARD.       The Towing and [7]  
2 Storage[~~7 and Booting~~] Advisory Board under Chapter 2308 shall  
3 advise the commission in adopting vehicle storage rules under this  
4 chapter.

5           SECTION 1.10. Section 2303.103, Occupations Code, is  
6 amended to read as follows:

7           Sec. 2303.103. ELIGIBILITY. The department shall approve  
8 an application submitted as provided by Section 2303.102 unless  
9 ~~[the department determines that:~~

10                   ~~[(1) the applicant knowingly supplied false or~~  
11 ~~incomplete information on the application;~~

12                   ~~[(2) in the three years preceding the date of~~  
13 ~~application, the applicant, a partner, principal, or officer of the~~  
14 ~~applicant, or the general manager of the applicant, was convicted~~  
15 ~~of:~~

16                           ~~[(A) a felony; or~~

17                           ~~[(B) a misdemeanor punishable by confinement in~~  
18 ~~jail or by a fine exceeding \$500; or~~

19                   ~~[(3)]~~ the vehicle storage facility for which the  
20 license is sought does not meet the standards for storage  
21 facilities established by commission rules.

22           SECTION 1.11. Section 2303.104(b), Occupations Code, is  
23 amended to read as follows:

24           (b) The notice must state the reason for the department's  
25 decision and that the applicant is entitled to a hearing before the  
26 State Office of Administrative Hearings under Section 51.354  
27 ~~[department under Subchapter E]~~.

SECTION 1.12. Sections 2303.151(a), (d), and (e), Occupations Code, are amended to read as follows:

(a) The operator of a vehicle storage facility who receives a vehicle that is registered in this state and that is towed to the facility for storage shall send a written notice to the registered owner and each ~~[the primary]~~ lienholder of the vehicle not later than the fifth day after the date but not earlier than 24 hours after the date the operator receives the vehicle. If the operator of a vehicle storage facility sends the notice outside of the time period described by this subsection or Subsection (b), the ability of the operator to seek foreclosure of a lien on the vehicle for storage charges is not affected.

(d) A notice under this section must:

(1) be correctly addressed;

(2) be sent with ~~[carry]~~ sufficient postage attached or paid; and

(3) be sent:

(A) by certified mail, return receipt requested;

or

(B) by electronic certified mail, electronic return receipt with electronic delivery confirmation requested.

(e) A notice under this section is considered to have been:

(1) given on:

(A) the date indicated on the postmark; or

(B) the electronic filing date acknowledged by an electronic audit trail by the United States Postal Service or its agent; and

1           (2) ~~[to be]~~ timely filed if:

2                   (A) ~~[(1)]~~ the postmark or electronic filing date  
3 indicates that the notice was mailed within the period described by  
4 Subsection (a) or (b), as applicable; or

5                   (B) ~~[(2)]~~ the notice was published as provided by  
6 Section 2303.152.

7           SECTION 1.13. Section 2303.1511(a), Occupations Code, is  
8 amended to read as follows:

9           (a) A vehicle storage facility accepting a vehicle that is  
10 towed under Chapter 2308 ~~[this chapter]~~ shall, within two hours  
11 after receiving the vehicle, report to the local law enforcement  
12 agency with jurisdiction over the area from which the vehicle was  
13 towed:

14                   (1) a general description of the vehicle;

15                   (2) the state and number of the vehicle's license  
16 plate, if any;

17                   (3) the vehicle identification number of the vehicle,  
18 if it can be ascertained;

19                   (4) the location from which the vehicle was towed; and

20                   (5) the name and location of the vehicle storage  
21 facility where the vehicle is being stored.

22           SECTION 1.14. Sections 2303.152(a), (b), and (e),  
23 Occupations Code, are amended to read as follows:

24           (a) Notice to the registered owner and each recorded ~~[the~~  
25 ~~primary]~~ lienholder of a vehicle towed to a vehicle storage  
26 facility may be provided by publication in a newspaper of general  
27 circulation in the county in which the vehicle is stored if:

(1) the vehicle is registered in another state;

(2) the operator of the storage facility submits to the governmental entity with which the vehicle is registered a written request, including an electronic request, for information relating to the identity of the registered owner and each recorded ~~[any]~~ lienholder ~~[of record]~~;

(3) the identity of the registered owner cannot be determined;

(4) the registration does not contain an address for the registered owner; or

(5) the operator of the storage facility cannot reasonably determine the identity and address of each recorded lienholder.

(b) The written or electronic request must:

(1) be correctly addressed;

(2) be sent with ~~[carry]~~ sufficient postage attached or paid; and

(3) be sent:

(A) by certified mail, return receipt requested;  
or

(B) by electronic certified mail, electronic  
return receipt with electronic delivery confirmation requested.

(e) Notice to the registered owner and each recorded ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a newspaper of general circulation in the county in which the vehicle is stored if:

(1) the vehicle does not display a license plate or a



1 vehicle inspection certificate indicating the state of  
2 registration;

3 (2) the identity of the registered owner cannot  
4 reasonably be determined by the operator of the storage facility;  
5 or

6 (3) the operator of the storage facility cannot  
7 reasonably determine the identity and address of each recorded  
8 lienholder.

9 SECTION 1.15. Section 2303.154, Occupations Code, is  
10 amended to read as follows:

11 Sec. 2303.154. SECOND NOTICE; CONSENT TO SALE. (a) [~~If a~~  
12 ~~vehicle is not claimed by a person permitted to claim the vehicle or~~  
13 ~~a law enforcement agency has not taken an action in response to a~~  
14 ~~notice under Section 683.031(c), Transportation Code, before the~~  
15 ~~15th day after the date notice is mailed or published under Section~~  
16 ~~2303.151 or 2303.152, the operator of the vehicle storage facility~~  
17 ~~shall send a second notice to the registered owner and the primary~~  
18 ~~lienholder of the vehicle.~~

19 [(a-1)] If a vehicle is not claimed by a person permitted to  
20 claim the vehicle before the 10th day after the date notice is  
21 mailed or published under Section 2303.151 or 2303.152, the  
22 operator of the vehicle storage facility shall consider the vehicle  
23 to be abandoned and, if required by the law enforcement agency with  
24 jurisdiction where the vehicle is located, report the [~~send notice~~  
25 ~~of~~] abandonment to the [~~a~~] law enforcement agency. If the law  
26 enforcement agency notifies the vehicle storage facility that the  
27 agency will send notices and dispose of abandoned vehicles under

Subchapter B, Chapter 683, Transportation Code, the vehicle storage facility shall pay the fee required under Section 683.031, Transportation Code.

(b) Not earlier than the 15th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of a vehicle storage facility shall send a second notice to the registered owner and each recorded lienholder of the vehicle if the facility:

(1) was not required to make a report under Subsection (a); or

(2) has made a required report under Subsection (a) and the law enforcement agency:

(A) has notified the facility that the law enforcement agency will not take custody of the vehicle;

(B) has not taken custody of the vehicle; or

(C) has not responded to the report.

(c) Notice under this section must be sent by certified mail, return receipt requested, or electronic certified mail, electronic return receipt with electronic delivery confirmation requested, and include:

(1) the information listed in Section 2303.153(a);

(2) a statement of the right of the facility to dispose of the vehicle under Section 2303.157; and

(3) a statement that the failure of the owner or lienholder to claim the vehicle before the 30th day after the date the notice is provided is:

(A) a waiver by that person of all right, title,

or interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

(d) ~~[(c)]~~ Notwithstanding Subsection (c) ~~[(b)]~~, if publication is required for notice under this section, the notice must include:

(1) the information listed in Section 2303.153(b); and

(2) a statement that the failure of the owner or lienholder to claim the vehicle before the date of sale is:

(A) a waiver of all right, title, and interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

SECTION 1.16. Sections 2303.1545(b) and (c), Occupations Code, are amended to read as follows:

(b) The facility shall, if required by the agency, ~~[may:~~

~~[(1) notify the department that notices under Chapter 683, Transportation Code, have been provided and shall pay a fee of \$10 to the department, or~~

~~[(2) in the alternative,~~] notify the appropriate law enforcement agency and pay a fee of \$10 to that agency.

(c) A law enforcement agency described by Subsection (b) ~~[(b)(2)]~~ may sign a document issued by the department.

SECTION 1.17. Section 2303.155, Occupations Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (h) to read as follows:

(a) For the purposes of this section, "governmental vehicle

storage facility" means a garage, parking lot, or other facility that is:

- (1) ~~[(A)]~~ owned by a governmental entity; and
- (2) ~~[(B)]~~ used to store or park at least 10 vehicles each year.

(b) The operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

(1) a notification fee set in a reasonable amount for providing notice under this subchapter, including notice under Section 2303.154(d) ~~[2303.154(c)]~~;

(2) an impoundment fee of \$20, subject to Subsection (h), for any action that:

(A) is taken by or at the direction of the owner or operator of the facility; and

(B) is necessary to preserve, protect, or service a vehicle stored or parked at the facility;

(3) a daily storage fee, subject to Subsection (h), of:

(A) not less than \$5 and not more than \$20 for each day or part of a day the vehicle is stored at the facility if the vehicle is not longer than 25 feet; or

(B) \$35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; and

(4) any fee that is required to be submitted to a law enforcement agency, the agency's authorized agent, or a governmental entity~~[-and~~

1           ~~[(5) a fee in an amount set by the commission for the~~  
2 ~~remediation, recovery, or capture of an environmental or biological~~  
3 ~~hazard].~~

4           (c) Subject to Subsection (h), a [A] notification fee under  
5 Subsection (b) may not exceed \$50, except that if notice by  
6 publication is required by this chapter and the cost of publication  
7 exceeds 50 percent of the notification fee, the vehicle storage  
8 facility may recover the additional amount of the cost of  
9 publication from the vehicle owner or agent.

10          (h) Not later than September 1 of each even-numbered year,  
11 the commission shall review and by rule adjust as necessary as  
12 determined by the review the amount that a vehicle storage facility  
13 operator may charge the owner or operator of a vehicle stored at the  
14 facility:

15                   (1) as a notification fee under Subsection (b)(1);

16                   (2) as an impoundment fee under Subsection (b)(2); and

17                   (3) as a daily storage fee under Subsection (b)(3).

18          SECTION 1.18. Section 2303.1551, Occupations Code, is  
19 amended to read as follows:

20          Sec. 2303.1551. REQUIRED POSTING OR DISPLAY. (a) All  
21 storage fees shall be posted or electronically displayed at the  
22 licensed vehicle storage facility ~~[to which the motor vehicle has~~  
23 ~~been delivered and shall be posted]~~ in view of a a ~~[the]~~ person  
24 claiming a ~~[who claims the]~~ vehicle.

25          (b) A vehicle storage facility accepting a nonconsent towed  
26 vehicle shall post a sign that complies with commission rules and  
27 states ~~[in one inch letters stating]~~ "Nonconsent tow fees schedules

1 available on request." The vehicle storage facility shall provide  
2 a copy of a nonconsent towing fees schedule on request. The  
3 commission shall adopt rules for signs required under this  
4 subsection.

5 SECTION 1.19. Section 2303.157, Occupations Code, is  
6 amended by amending Subsections (a) and (b) and adding Subsections  
7 (a-1) and (b-1) to read as follows:

8 (a) The operator of a vehicle storage facility may dispose  
9 of a vehicle for which the second notice is given under Section  
10 2303.154(b) or (d) [~~2303.154~~] if, before the 30th day after the date  
11 notice is mailed or published, the vehicle is not:

12 (1) claimed by a person entitled to claim the vehicle;  
13 or

14 (2) taken into custody by a law enforcement agency  
15 under Chapter 683, Transportation Code.

16 (a-1) If the vehicle is not claimed by a person entitled to  
17 claim the vehicle within the period described by Subsection (a),  
18 the owner or any lienholder:

19 (1) waives all rights and interests in the vehicle;  
20 and

21 (2) consents to the sale of the vehicle at a public  
22 sale.

23 (b) An operator entitled to dispose of a vehicle under this  
24 section may sell the vehicle at a public sale without obtaining a  
25 release or discharge of any lien on the vehicle, regardless of  
26 whether notice was provided by mail or by publication under this  
27 chapter. The proceeds from the sale of the vehicle shall be applied

to the charges incurred for the vehicle under Section [2303.155](#), any fee authorized under Section [2308.2065](#), and the cost of the public sale. The operator shall pay any excess proceeds to the person entitled to those proceeds.

(b-1) The purchaser of an abandoned vehicle under this section:

(1) takes title to the vehicle free and clear of all liens and claims of ownership;

(2) shall receive an auction sales receipt from the vehicle storage facility; and

(3) is entitled to register the vehicle and receive a certificate of title under Chapter [501](#), Transportation Code, or Chapter [31](#), Parks and Wildlife Code, as applicable.

SECTION 1.20. Sections [2303.159](#)(a) and (a-1), Occupations Code, are amended to read as follows:

(a) The operator of a vehicle storage facility shall accept each of the following forms of payment for any charge associated with delivery or storage of a vehicle:

(1) cash;

(2) debit card; and

(3) credit card, if the credit card is issued by:

(A) a financial institution chartered by a state or the federal government; or

(B) a nationally recognized credit organization approved by the department.

(a-1) The operator of a vehicle storage facility shall conspicuously post or electronically display a sign that states:

1 "This vehicle storage facility must accept payment by cash, credit  
2 card, and debit card for any fee or charge associated with delivery  
3 or storage of a vehicle." The operator of a vehicle storage  
4 facility may not refuse to release a vehicle based on the inability  
5 of the facility to accept payment by debit card or credit card of a  
6 fee or charge associated with delivery or storage of the vehicle  
7 unless the operator, through no fault of the operator, is unable to  
8 accept the debit card or credit card because of a power outage or a  
9 machine malfunction.

10 SECTION 1.21. The heading to Section 2303.160, Occupations  
11 Code, is amended to read as follows:

12 Sec. 2303.160. RELEASE OF VEHICLE TO VEHICLE OWNER OR  
13 OPERATOR [VEHICLES].

14 SECTION 1.22. Sections 2303.160(b) and (c), Occupations  
15 Code, are amended to read as follows:

16 (b) A vehicle storage facility shall release a vehicle to an  
17 owner of the vehicle if the owner:

18 (1) presents:

19 (A) valid photo identification issued by this  
20 state, another state, a federal agency, or a foreign government;  
21 and

22 (B) proof of ownership or right of possession or  
23 control of vehicle, including [must accept] evidence of financial  
24 responsibility[~~as~~] required by Section 601.051, Transportation  
25 Code; and

26 (2) pays the fees and charges for services regulated  
27 under this chapter and Chapter 2308, including charges for an



1 incident management tow, as defined by Section 2308.002 [~~, as an~~  
2 ~~additional form of identification that establishes ownership or~~  
3 ~~right of possession or control of the vehicle]~~.

4 (c) A [~~Subsection (b) does not require a~~] vehicle storage  
5 facility may require other documentation as required by a municipal  
6 ordinance, law enforcement agency, or governmental agency under  
7 which the tow was authorized [~~to release a vehicle to the owner or~~  
8 ~~operator of the vehicle if the owner or operator of the vehicle does~~  
9 ~~not:~~

10 [~~(1) pay the charges for services regulated under this~~  
11 ~~chapter or Chapter 2308, including charges for an incident~~  
12 ~~management tow, as defined by Section 2308.002, and~~

13 [~~(2) present valid photo identification issued by this~~  
14 ~~state, another state, a federal agency, or a foreign government]~~.

15 SECTION 1.23. Subchapter D, Chapter 2303, Occupations Code,  
16 is amended by adding Section 2303.1601 to read as follows:

17 Sec. 2303.1601. ACCEPTANCE OF VEHICLES FROM AND RELEASE OF  
18 VEHICLES TO LICENSED TOWING OPERATORS. (a) A vehicle storage  
19 facility may accept towed vehicles only from licensed towing  
20 operators.

21 (b) A vehicle storage facility is required to release a  
22 vehicle to a towing operator only if:

23 (1) the towing operator is licensed under Chapter  
24 2308; and

25 (2) the release occurs between 8 a.m. and 6 p.m. on a  
26 weekday.

27 SECTION 1.24. Chapter 2303, Occupations Code, is amended by

adding Subchapter E to read as follows:

SUBCHAPTER E. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2303.201. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) At the time an owner or operator of a vehicle pays the costs of the vehicle's towing, storage, and recovery, the vehicle storage facility that received the payment shall, unless a hearing regarding the vehicle's storage and towing has been held under Subchapter J, Chapter 2308, give the owner or operator written notice of the person's rights under this chapter and Chapter 2308.

(b) The operator of a vehicle storage facility that sends a notice under Subchapter D shall include with that notice a notice of the person's rights under this chapter and Chapter 2308.

(c) A vehicle storage facility that fails to furnish to the owner or operator of the vehicle at the time of payment the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the towing of the vehicle is liable for the costs of the vehicle's storage if the court, after a hearing, does not find probable cause for the towing and storage of the vehicle.

Sec. 2303.202. CONTENTS OF NOTICE. The notice under Section 2303.201 must include:

(1) a statement of:

(A) the vehicle owner's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to tow the vehicle;

(B) the information that a request for a hearing must contain;

1                    (C) the amount of any filing fee for the hearing;  
2 and

3                    (D) the vehicle owner's right to request a  
4 hearing in any justice court in the county from which the vehicle  
5 was towed;

6                    (2) the name, address, and telephone number of the  
7 towing company that towed the vehicle;

8                    (3) the name, address, telephone number, and county of  
9 the vehicle storage facility in which the vehicle is stored;

10                   (4) the name, street address, including city, state,  
11 and zip code, and telephone number of the person, parking facility  
12 owner, or law enforcement agency that authorized the towing of the  
13 vehicle; and

14                   (5) either:

15                   (A) the name, address, and telephone number of  
16 each justice court in the county from which the vehicle was towed;  
17 or

18                   (B) the address of an Internet website maintained  
19 by the Office of Court Administration of the Texas Judicial System  
20 that contains the name, address, and telephone number of each  
21 justice court in that county.

22                   Sec. 2303.203. HEARING. A hearing referenced in a notice  
23 given under this subchapter is governed by Subchapter J, Chapter  
24 2308.

25                   SECTION 1.25. Section 2303.302(a), Occupations Code, is  
26 amended to read as follows:

27                   (a) A person commits an offense if the person [+]

1           ~~[(1)]~~ violates the licensing requirements of this  
2 chapter ~~[, or~~

3           ~~[(2) employs an individual who does not hold an~~  
4 ~~appropriate license required by this chapter]~~.

5           SECTION 1.26. Sections 2308.002(1), (11), (14), (15), and  
6 (16), Occupations Code, are amended to read as follows:

7           (1) "Advisory board" means the Towing and ~~[, and~~ Storage  
8 ~~[, and Booting]~~ Advisory Board.

9           (11) "Tow truck" means a motor vehicle, including a  
10 wrecker, equipped with a mechanical device used to tow, winch, or  
11 otherwise move another motor vehicle. The term does not include:

12                   (A) a motor vehicle owned and operated by a  
13 governmental entity, including a public school district;

14                   (B) a motor vehicle towing:

15                           (i) a race car;

16                           (ii) a motor vehicle for exhibition; or

17                           (iii) an antique motor vehicle;

18                   (C) a recreational vehicle towing another  
19 vehicle;

20                   (D) a motor vehicle used in combination with a  
21 tow bar, tow dolly, or other mechanical device if the vehicle is not  
22 operated in the furtherance of a commercial enterprise;

23                   (E) a motor vehicle that is controlled or  
24 operated by a farmer or rancher and used for towing a farm vehicle;

25                   (F) a motor vehicle that:

26                           (i) is owned or operated by an entity the  
27 primary business of which is the rental of motor vehicles; and

(ii) only tows vehicles rented by the entity;

(G) a truck-trailer combination that is owned or operated by a dealer licensed under Chapter 2301 and used to transport new vehicles during the normal course of a documented transaction in which the dealer is a party and ownership or the right of possession of the transported vehicle is conveyed or transferred; or

(H) a car hauler that is:

(i) designed to transport three or more motor vehicles at the same time; and

(ii) used solely to transport, other than in a consent or nonconsent tow, motor vehicles as cargo in the course of a prearranged shipping transaction or for use in mining, drilling, or construction operations.

(14) "Vehicle" has the meaning assigned by Section 2303.002 ~~[means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track].~~

(15) "Vehicle owner" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable;

(B) in whose name the vehicle is titled

1 ~~[registered]~~ under Chapter 501 ~~[502]~~, Transportation Code, or  
2 Chapter 31, Parks and Wildlife Code, as applicable, or a member of  
3 the person's immediate family;

4 (C) who holds the vehicle through a lease  
5 agreement;

6 (D) who is an unrecorded lienholder entitled to  
7 possess the vehicle under the terms of a chattel mortgage; or

8 (E) who is a lienholder holding an affidavit of  
9 repossession and entitled to repossess the vehicle.

10 (16) "Vehicle storage facility" has the meaning  
11 assigned by ~~[means a vehicle storage facility, as defined by]~~  
12 Section 2303.002 ~~[, that is operated by a person who holds a license~~  
13 ~~issued under Chapter 2303 to operate the facility]~~.

14 SECTION 1.27. Subchapter A, Chapter 2308, Occupations Code,  
15 is amended by adding Section 2308.005 to read as follows:

16 Sec. 2308.005. MUNICIPAL LAW OR GOVERNMENTAL CONTRACT  
17 CONTROLS. Unless specifically provided otherwise, this chapter  
18 does not control over a contract with a governmental entity to  
19 provide incident management tow service.

20 SECTION 1.28. The heading to Subchapter B, Chapter 2308,  
21 Occupations Code, is amended to read as follows:

22 SUBCHAPTER B. ADVISORY BOARD; POWERS AND DUTIES OF DEPARTMENT AND  
23 COMMISSION

24 SECTION 1.29. The heading to Section 2308.051, Occupations  
25 Code, is amended to read as follows:

26 Sec. 2308.051. TOWING AND ~~[7]~~ STORAGE ~~[7 AND BOOTING]~~  
27 ADVISORY BOARD.

SECTION 1.30. Section 2308.051(a), Occupations Code, as amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

(1) one representative of a towing company operating in a county with a population of less than one million;

(2) one representative of a towing company operating in a county with a population of one million or more;

(3) one representative ~~[owner]~~ of a vehicle storage facility located in a county with a population of less than one million;

(4) one representative ~~[owner]~~ of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility representative ~~[owner]~~;

(6) one peace officer ~~[law enforcement officer]~~ from a county with a population of less than one million;

(7) one peace officer ~~[law enforcement officer]~~ from a county with a population of one million or more;

(8) one representative of a member insurer, as defined by Section 462.004, Insurance Code, of the Texas Property and Casualty Insurance Guaranty Association who writes ~~[property and casualty insurers who write]~~ automobile insurance in this state;

and

1           ~~[(9) one representative of a booting company]~~

2           (9) one person who operates both a towing company and a  
3 vehicle storage facility ~~[public member]~~.

4           SECTION 1.31. Section 2308.057(a), Occupations Code, is  
5 amended to read as follows:

6           (a) The commission shall adopt rules for permitting tow  
7 trucks and licensing towing operators and ~~[7]~~ towing companies ~~[7~~  
8 ~~booting companies, and boot operators]~~. The commission may adopt  
9 different rules applicable to each type of permit or license.

10          SECTION 1.32. Section 2308.059, Occupations Code, is  
11 amended to read as follows:

12          Sec. 2308.059. PERIODIC ~~[AND RISK-BASED]~~ INSPECTIONS. (a)  
13 The department may enter and inspect at any time during business  
14 hours:

15               (1) the place of business of any person regulated  
16 under this chapter; or

17               (2) any place in which the department has reasonable  
18 cause to believe that a license or permit holder is in violation of  
19 this chapter or in violation of a rule or order of the commission or  
20 executive director.

21           (b) ~~[The department shall conduct additional inspections~~  
22 ~~based on a schedule of risk-based inspections using the following~~  
23 ~~criteria:~~

24               ~~[(1) the type and nature of the towing company or~~  
25 ~~operator,~~

26               ~~[(2) the inspection history,~~

27               ~~[(3) any history of complaints involving the towing~~



~~company or operator, and~~

~~[(4) any other factor determined by the commission by rule.~~

~~[(c) The towing company shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee.~~

~~[(d)]~~ In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

SECTION 1.33. Subchapter B, Chapter 2308, Occupations Code, is amended by adding Section 2308.062 to read as follows:

Sec. 2308.062. CONTINUING EDUCATION PROGRAMS. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

SECTION 1.34. The heading to Subchapter C, Chapter 2308, Occupations Code, is amended to read as follows:

SUBCHAPTER C. GENERAL ~~[TOW TRUCK]~~ PERMIT PROVISIONS ~~[REQUIREMENTS]~~

SECTION 1.35. Section 2308.101, Occupations Code, is amended to read as follows:

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this

1 state unless an appropriate permit has been issued for the tow truck  
2 under this chapter [~~subchapter~~]. Each tow truck requires a  
3 separate permit.

4 SECTION 1.36. Section 2308.102(a), Occupations Code, is  
5 amended to read as follows:

6 (a) An applicant for a permit under this chapter  
7 [~~subchapter~~] must submit to the department:

8 (1) a completed application on a form prescribed by  
9 the executive director;

10 (2) evidence of insurance or financial responsibility  
11 required under this chapter [~~subchapter~~];

12 (3) the required fees; and

13 (4) any other information required by the executive  
14 director.

15 SECTION 1.37. Section 2308.106(a), Occupations Code, is  
16 amended to read as follows:

17 (a) The department shall issue a permit under this chapter  
18 [~~subchapter~~] to an applicant who meets the requirements for a  
19 permit. The department may deny an application if the applicant has  
20 had a permit revoked under this chapter.

21 SECTION 1.38. Sections 2308.108(b) and (e), Occupations  
22 Code, are amended to read as follows:

23 (b) The department shall issue a cab card when the  
24 department issues or renews a permit under this chapter  
25 [~~subchapter~~].

26 (e) If the department determines that the cab card system  
27 described by Subsections (a) through (c) is not an efficient means

1 of enforcing this chapter [~~subchapter~~], the commission [~~executive~~  
2 ~~director~~] by rule may adopt an alternative method that is  
3 accessible by law enforcement personnel in the field and provides  
4 for the enforcement of the permit requirements of this chapter  
5 [~~subchapter~~].

6 SECTION 1.39. Section 2308.109(b), Occupations Code, is  
7 amended to read as follows:

8 (b) The information required to be displayed must be:

9 (1) printed in letters and numbers that are in a size  
10 and [~~at least two inches high and in a~~] color that comply with  
11 commission rules [~~contrasts with the color of the background~~  
12 ~~surface~~]; and

13 (2) permanently affixed in conspicuous places on both  
14 sides of the tow truck.

15 SECTION 1.40. Sections 2308.110(a) and (c), Occupations  
16 Code, are amended to read as follows:

17 (a) A permit holder shall maintain liability insurance for  
18 each tow truck according to the requirements under this chapter  
19 [~~subchapter~~].

20 (c) An applicant or permit holder must file with the  
21 department evidence of insurance as required by this chapter  
22 [~~subchapter~~].

23 SECTION 1.41. The heading to Subchapter D, Chapter 2308,  
24 Occupations Code, is amended to read as follows:

25 SUBCHAPTER D. GENERAL LICENSE PROVISIONS [~~REQUIREMENTS~~]

26 SECTION 1.42. Section 2308.151, Occupations Code, is  
27 amended to read as follows:

1       Sec. 2308.151. LICENSE REQUIRED. Unless the person holds  
2 an appropriate license under this chapter [~~subchapter~~], a person  
3 may not:

4           (1) perform towing operations; or

5           (2) operate a towing company [~~+~~

6           ~~[(3) perform booting operations; or~~

7           ~~[(4) operate a booting company]~~.

8       SECTION 1.43. Section 2308.152, Occupations Code, is  
9 amended to read as follows:

10       Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.  
11 An applicant for a license under this chapter [~~subchapter~~] must  
12 submit to the department:

13           (1) a completed application on a form prescribed by  
14 the executive director;

15           (2) the required fees; and

16           (3) any other information required by commission rule.

17       SECTION 1.44. Section 2308.156, Occupations Code, is  
18 amended to read as follows:

19       Sec. 2308.156. NONTRANSFERABILITY OF LICENSE.   (a) A  
20 license issued by the executive director is valid throughout this  
21 state and is not transferable.

22       (b) Notwithstanding Subsection (a), if the holder of a  
23 towing company license issued under this chapter dies or is  
24 disabled, the commission may transfer the license to a member of the  
25 license holder's family in accordance with commission rule.

26       SECTION 1.45. Section 2308.158, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2308.158. ALCOHOL AND DRUG TESTING OF TOWING  
2 OPERATORS. (a) A towing company shall establish an alcohol and  
3 drug testing policy for towing operators. A towing company that  
4 establishes an alcohol and drug testing policy under this  
5 subsection may adopt:

6           (1) the model alcohol and drug testing policy adopted  
7 by the commission;

8           (2) [or may use] another alcohol and drug testing  
9 policy that the department determines is at least as stringent as  
10 the policy adopted by the commission; or

11           (3) the alcohol and drug testing policy prescribed by  
12 49 C.F.R. Part 40.

13           (b) The commission by rule shall adopt a model alcohol and  
14 drug testing policy for use by a towing company. The model alcohol  
15 and drug testing policy must be designed to ensure the safety of the  
16 public through appropriate alcohol and drug testing and to protect  
17 the rights of employees. The model alcohol and drug testing policy  
18 must [+]

19           ~~[(1) require at least one scheduled drug test each~~  
20 ~~year for each towing operator; and~~

21           ~~[(2)]~~ authorize random, unannounced alcohol and drug  
22 testing for towing operators.

23           SECTION 1.46. Section 2308.159(a), Occupations Code, is  
24 amended to read as follows:

25           (a) A license issued under this chapter ~~[subchapter]~~ is  
26 valid for one year. The department may adopt a system under which  
27 licenses expire at different times during the year.

SECTION 1.47. Chapter 2308, Occupations Code, is amended by adding Subchapters D-1, D-2, and D-3 to read as follows:

SUBCHAPTER D-1. INCIDENT MANAGEMENT TOWING

Sec. 2308.161. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING PERMIT. (a) An incident management towing permit is required for a tow truck used to perform any nonconsent tow initiated by a peace officer, including a tow authorized under Section 545.3051, Transportation Code.

(b) To be eligible for an incident management towing permit, an applicant must submit evidence that:

(1) the tow truck to be permitted is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant maintains at least \$500,000 of liability insurance coverage for the tow truck; and

(3) the applicant maintains at least \$50,000 of cargo insurance coverage for the tow truck.

(c) A tow truck permitted under this section may also be used for private property towing and consent towing.

(d) When a tow truck is used for a nonconsent tow initiated by a peace officer under Section 545.3051, Transportation Code, the permit holder is an agent of law enforcement and is subject to Section 545.3051(e), Transportation Code.

Sec. 2308.162. INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE. (a) An incident management towing operator's license is required to operate a tow truck permitted under Section 2308.161.

(b) An applicant for an incident management towing

operator's license must:

(1) hold a valid driver's license issued by a state in the United States; and

(2) be certified by a program approved by the department.

SUBCHAPTER D-2. PRIVATE PROPERTY TOWING

Sec. 2308.171. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property towing permit, an applicant must submit evidence that:

(1) the tow truck to be permitted is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant maintains at least \$300,000 of liability insurance coverage for the tow truck; and

(3) the applicant maintains at least \$50,000 of cargo insurance coverage for the tow truck.

(c) A tow truck permitted under this section may also be used for consent towing. A tow truck permitted under this section may not be used for incident management towing.

Sec. 2308.172. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

(a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.171.

(b) An applicant for a private property towing operator's license must:

1           (1) hold a valid driver's license issued by a state in  
2 the United States; and

3           (2) be certified by a program approved by the  
4 department.

5                   SUBCHAPTER D-3. CONSENT TOWING

6           Sec. 2308.181. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a)  
7 A consent towing permit is required for a tow truck used to perform  
8 a consent tow authorized by the vehicle owner.

9           (b) To be eligible for a consent towing permit, an applicant  
10 must submit evidence that:

11           (1) the tow truck to be permitted is equipped to tow  
12 light-duty or heavy-duty vehicles according to the manufacturer's  
13 towing guidelines; and

14           (2) the applicant maintains at least \$300,000 of  
15 liability insurance coverage for the tow truck.

16           (c) A tow truck permitted under this section may not be used  
17 for nonconsent towing, including incident management towing and  
18 private property towing.

19           Sec. 2308.182. CONSENT TOWING OPERATOR'S LICENSE. (a) A  
20 consent towing operator's license is required to operate a tow  
21 truck permitted under Section 2308.181.

22           (b) An applicant for a consent towing operator's license  
23 must hold a valid driver's license issued by a state in the United  
24 States.

25           SECTION 1.48. Sections [2308.2065](#)(a) and (b), Occupations  
26 Code, are amended to read as follows:

27           (a) A license or permit holder may not charge a fee for a



nonconsent tow that is greater than:

(1) the fee for a private property ~~[nonconsent]~~ tow established under Section [2308.0575](#); or

(2) a fee for an incident management or private property ~~[a nonconsent]~~ tow authorized by a political subdivision.

(b) A license or permit holder may not charge a fee for a service related to a nonconsent tow that is not included in the list of fees established:

(1) for a private property tow under Section [2308.0575](#); or

(2) by a political subdivision.

SECTION 1.49. Section [2308.2085](#), Occupations Code, is amended to read as follows:

Sec. 2308.2085. LOCAL AUTHORITY REGULATION OF ~~[MUNICIPAL ORDINANCE—REGULATING]~~ BOOTING ACTIVITIES ~~[COMPANIES—AND OPERATORS]~~. (a) A local authority ~~[municipality]~~ may regulate, in areas in which the entity regulates parking or traffic, [adopt an ordinance that is identical to the] booting activities, including:

(1) operation of booting companies and operators that operate on a parking facility;

(2) any permit and sign requirements in connection with the booting of a vehicle; and

(3) ~~[provisions in this chapter or that imposes additional requirements that exceed the minimum standards of the booting provisions in this chapter but may not adopt an ordinance that conflicts with the booting provisions in this chapter.~~

~~[(b) A municipality may regulate the]~~ fees that may be

1 charged in connection with the booting of a vehicle [~~including~~  
2 ~~associated parking fees~~].

3 (b) Regulations adopted under this section must:

4 (1) incorporate the requirements of Sections 2308.257  
5 and 2308.258;

6 (2) include procedures for vehicle owners and  
7 operators to file a complaint with the local authority regarding a  
8 booting company or operator;

9 (3) provide for the imposition of a penalty on a  
10 booting company or operator for a violation of Section 2308.258;  
11 and

12 (4) provide for the revocation of any permit, license,  
13 or other authority of a booting company or operator to boot vehicles  
14 if the company or operator violates Section 2308.258 more than  
15 twice in a five-year period [~~(c) A municipality may require booting~~  
16 ~~companies to obtain a permit to operate in the municipality~~].

17 SECTION 1.50. Section 2308.254, Occupations Code, is  
18 amended to read as follows:

19 Sec. 2308.254. LIMITATION ON PARKING FACILITY OWNER'S  
20 AUTHORITY TO TOW [REMOVE] UNAUTHORIZED VEHICLE. A parking facility  
21 owner may not have an unauthorized vehicle towed [~~removed~~] from the  
22 facility except:

23 (1) as provided by this chapter or a municipal  
24 ordinance that complies with Section 2308.208; or

25 (2) under the direction of a peace officer or the owner  
26 or operator of the vehicle.

27 SECTION 1.51. Section 2308.255, Occupations Code, is

transferred to Subchapter I, Chapter 2308, Occupations Code, redesignated as Section 2308.4011, Occupations Code, and amended to read as follows:

Sec. 2308.4011 [~~2308.255~~]. TOWING COMPANY'S [~~OR BOOT OPERATOR'S~~] AUTHORITY TO TOW [~~REMOVE AND STORE OR BOOT~~] UNAUTHORIZED VEHICLE FROM PARKING FACILITY. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, tow [~~remove and store~~] the vehicle to [~~at~~] a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or

(B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or

(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to tow [~~remove~~] and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251;

(B) in or obstructing a portion of a paved driveway; or

(C) on a public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not tow [~~remove~~] an unauthorized

vehicle except under:

- (1) this chapter;
- (2) a municipal ordinance that complies with Section 2308.208; or
- (3) the direction of a peace officer or the owner or operator of the vehicle.

(c) Only a towing company that is insured against liability for property damage incurred in towing a vehicle may tow ~~[remove and store]~~ an unauthorized vehicle under this section.

(d) A towing company may tow ~~[remove and store]~~ a vehicle to a licensed storage facility under Subsection (a) ~~[and a boot operator may boot a vehicle under Section 2308.257]~~ only if the parking facility owner:

- (1) requests that the towing company tow ~~[remove and store or that the boot operator boot]~~ the specific vehicle; or
- (2) has a standing written agreement with the towing company ~~[or boot operator]~~ to enforce parking restrictions in the parking facility.

SECTION 1.52. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Section 2308.258 to read as follows:

Sec. 2308.258. BOOT REMOVAL. (a) A booting company responsible for the installation of a boot on a vehicle shall remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot.

(b) A booting company shall waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the

1 company fails to have the boot removed within the time prescribed by  
2 Subsection (a).

3 SECTION 1.53. Section 2308.302, Occupations Code, is  
4 amended by adding Subsection (b-1) and amending Subsections (c),  
5 (d), and (e) to read as follows:

6 (b-1) Any portion of the sign that is not described by  
7 Subsection (b) must be red or white with any lettering contrasting  
8 with the background.

9 (c) The portion of the sign immediately below the  
10 international towing symbol must +

11 ~~[(1)]~~ in lettering at least two inches in height,  
12 contain the words, as applicable:

13 (1) [(A)] "Towing and Booting Enforced"; or

14 (2) [(B)] "Towing Enforced" ~~+, or~~

15 ~~[(C)] "Booting Enforced"; and~~

16 ~~[(2) consist of white letters on a bright red~~  
17 ~~background].~~

18 (d) Except as provided by Subsection (e), the next lower  
19 portion of the sign must contain the remaining information required  
20 by Section 2308.301(b) displayed in ~~[bright red]~~ letters at least  
21 one inch in height ~~[on a white background].~~

22 (e) The bottommost portion of the sign must contain the  
23 telephone numbers required by Section 2308.301(b), in lettering at  
24 least one inch in height and may, if the facility owner chooses or  
25 if an applicable municipal ordinance requires, include the name and  
26 address of the storage facility to which an unauthorized vehicle  
27 will be towed ~~[removed. The lettering on this portion of the sign~~

1 ~~must consist of white letters on a bright red background]~~.

2 SECTION 1.54. Section 2308.304, Occupations Code, is  
3 amended to read as follows:

4 Sec. 2308.304. DESIGNATION OF RESTRICTED PARKING SPACES ON  
5 OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner  
6 may designate one or more spaces as restricted parking spaces on a  
7 portion of an otherwise unrestricted parking facility. Instead of  
8 installing a sign at each entrance to the parking facility as  
9 provided by Section 2308.301(a)(2), an owner may place a sign that  
10 prohibits unauthorized vehicles from parking in designated spaces  
11 and that otherwise complies with Sections 2308.301 and 2308.302:

12 (1) at the right or left side of each entrance to a  
13 designated area or group of parking spaces located on the  
14 restricted portion of the parking facility; or

15 (2) at the end of a restricted parking space so that  
16 the sign, the top of which must not be higher than seven feet above  
17 the ground, is directly facing and in front of [~~a vehicle that is~~  
18 ~~parked in the space and the rear of which is at the entrance of~~] the  
19 restricted space.

20 SECTION 1.55. The heading to Section 2308.353, Occupations  
21 Code, is amended to read as follows:

22 Sec. 2308.353. TOWING [~~REMOVAL~~] UNDER GOVERNMENTAL  
23 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.

24 SECTION 1.56. Section 2308.353(c), Occupations Code, is  
25 amended to read as follows:

26 (c) After signs have been posted under Subsection (b), the  
27 parking facility owner may have [~~or~~] a towing company tow [~~may~~

1 ~~remove~~] an unauthorized vehicle from the right-of-way subject to  
2 the governmental entity's written permission given under  
3 Subsection (a)(2).

4 SECTION 1.57. Section [2308.354](#), Occupations Code, is  
5 transferred to Subchapter E, Chapter [2308](#), Occupations Code,  
6 redesignated as Section 2308.210, Occupations Code, and amended to  
7 read as follows:

8 Sec. 2308.210 [[2308.354](#)]. AUTHORITY FOR TOWING [~~REMOVAL~~]  
9 OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a  
10 municipality regulating the parking of vehicles in the  
11 municipality, to aid in the enforcement of the ordinance, an  
12 employee designated by the municipality may be authorized to:

13 (1) immobilize a vehicle parked in the municipality;  
14 and

15 (2) tow [~~remove~~] an immobilized vehicle from a public  
16 roadway in the municipality.

17 (b) A parking facility owner or towing company may not tow  
18 [~~remove~~] a vehicle from a public roadway except under:

19 (1) this chapter or a municipal ordinance that  
20 complies with Section [2308.208](#); or

21 (2) the direction of a peace officer or the owner or  
22 operator of the vehicle.

23 (c) In addition to the authority granted under Subsection  
24 (a) and to aid in the enforcement of an ordinance regulating the  
25 parking of vehicles, a municipality with a population of 1.9  
26 million or more may authorize a designated employee to request the  
27 towing [~~removal~~] of a vehicle parked illegally in an area

1 designated as a tow-away zone in a residential area where on-street  
2 parking is regulated by the ordinance.

3 (d) Subsections (a) and (c) do not apply to a vehicle owned  
4 by an electric, gas, water, or telecommunications utility while the  
5 vehicle is parked for the purpose of conducting work on a facility  
6 of the utility that is located below, above, or adjacent to the  
7 street.

8 SECTION 1.58. The heading to Subchapter I, Chapter 2308,  
9 Occupations Code, is amended to read as follows:

10 SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~7, BOOTING~~  
11 ~~COMPANIES,~~] AND PARKING FACILITY OWNERS

12 SECTION 1.59. Section 2308.402, Occupations Code, is  
13 amended to read as follows:

14 Sec. 2308.402. TOWING COMPANY [~~AND BOOTING COMPANY~~]  
15 PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER.

16 (a) A towing company [~~or booting company~~] may not directly or  
17 indirectly give anything of value to a parking facility owner in  
18 connection with [~~+~~

19 [~~(1)~~] the towing [~~removal~~] of a vehicle from a parking  
20 facility [~~+~~ ~~or~~

21 [~~(2) the booting of a vehicle in a parking facility~~].

22 (b) A towing company [~~or booting company~~] may not have a  
23 direct or indirect monetary interest in a parking facility [~~+~~

24 [~~(1)~~] from which the towing company for compensation  
25 tows [~~removes~~] unauthorized vehicles [~~+~~ ~~or~~

26 [~~(2) in which the booting company for compensation~~  
27 ~~installs boots on unauthorized vehicles~~].



(c) This section does not apply to a sign required under Section 2308.301 provided by a towing ~~[or booting]~~ company to a parking facility owner.

SECTION 1.60. Section 2308.403, Occupations Code, is amended to read as follows:

Sec. 2308.403. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR TOWING ~~[REMOVAL]~~ OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the towing ~~[removal]~~ of an unauthorized vehicle is not liable for damages arising from the towing ~~[removal]~~ or storage of the vehicle if the vehicle:

(1) was towed ~~[removed]~~ in compliance with this chapter; and

(2) is:

(A) towed ~~[removed]~~ by a towing company insured against liability for property damage incurred in towing a vehicle; and

(B) stored by a vehicle storage facility insured against liability for property damage incurred in storing a vehicle.

SECTION 1.61. Section 2308.404, Occupations Code, is amended to read as follows:

Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY ~~[, BOOTING COMPANY,]~~ OR PARKING FACILITY OWNER FOR VIOLATION OF SUBCHAPTER ~~[CHAPTER]~~. (a) A towing company ~~[, booting company,]~~ or parking facility owner who violates this subchapter ~~[chapter]~~ is liable to the owner or operator of the vehicle that is the subject of the violation for:

1 (1) damages arising from the towing or [~~removal,~~  
2 storage[~~, or booting~~] of the vehicle; and

3 (2) towing or [~~,~~] storage[~~, or booting~~] fees paid by  
4 the owner or operator [~~assessed~~] in connection with the vehicle's  
5 towing or [~~removal,~~] storage[~~, or booting~~].

6 (b) A vehicle's owner or operator is not required to prove  
7 negligence of a parking facility owner or [~~,~~] towing company [~~, or~~  
8 ~~booting company~~] to recover under Subsection (a).

9 (c) A towing company [~~, booting company,~~] or parking  
10 facility owner who intentionally, knowingly, or recklessly  
11 violates this subchapter [~~chapter~~] is liable to the owner or  
12 operator of the vehicle that is the subject of the violation for  
13 \$1,000 plus three times the amount of fees paid by the owner or  
14 operator [~~assessed~~] in connection with the vehicle's [~~removal,~~  
15 towing or [~~,~~] storage[~~, or booting~~].

16 SECTION 1.62. Section 2308.452, Occupations Code, is  
17 amended to read as follows:

18 Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO  
19 HEARING. (a) The owner or operator of a vehicle that has been towed  
20 to [~~removed and placed in~~] a vehicle storage facility [~~or booted~~]  
21 without the consent of the owner or operator of the vehicle is  
22 entitled to a hearing on whether probable cause existed for the tow  
23 [~~removal and placement or booting~~].

24 (b) In a hearing authorized by Subsection (a), a court may  
25 determine only the issues described by Section 2308.458(c).

26 SECTION 1.63. Section 2308.453, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2308.453. JURISDICTION. A hearing under this chapter  
2 shall be in any justice court in[+]

3           [~~(1)~~] the county from which the motor vehicle was  
4 towed [~~+ or~~

5           [~~(2) for booted vehicles, the county in which the~~  
6 ~~parking facility is located~~].

7           SECTION 1.64. Sections 2308.456(a), (b), and (c),  
8 Occupations Code, are amended to read as follows:

9           (a) Except as provided by Subsections (c) and (c-1), a  
10 person entitled to a hearing under this chapter must deliver a  
11 written request for the hearing to the court before the 14th day  
12 after the date the vehicle was towed and stored [~~removed and placed~~]  
13 in the vehicle storage facility [~~or booted~~], excluding Saturdays,  
14 Sundays, and legal holidays.

15           (b) A request for a hearing must contain:

16               (1) the name, address, and telephone number of the  
17 owner or operator of the vehicle;

18               (2) the location from which the vehicle was towed  
19 [~~removed or in which the vehicle was booted~~];

20               (3) the date when the vehicle was towed [~~removed or~~  
21 ~~booted~~];

22               (4) the name, address, and telephone number of the  
23 person or law enforcement agency that authorized the tow [~~removal~~  
24 ~~or booting~~];

25               (5) the name, address, and telephone number of the  
26 vehicle storage facility in which the vehicle was stored [~~placed~~];

27               (6) the name, address, and telephone number of the

1 towing company that towed [~~removed~~] the vehicle [~~or of the booting~~  
2 ~~company that installed a boot on the vehicle~~];

3 (7) a copy of any receipt or notification that the  
4 owner or operator received from the towing company [~~, the booting~~  
5 ~~company,~~] or the vehicle storage facility; and

6 (8) if the vehicle was towed [~~removed~~] from [~~or booted~~  
7 ~~in~~] a parking facility:

8 (A) one or more photographs that show the  
9 location and text of any sign posted at the facility restricting  
10 parking of vehicles; or

11 (B) a statement that no sign restricting parking  
12 was posted at the parking facility.

13 (c) If notice was not given under Subchapter E, Chapter 2303  
14 [~~Section 2308.454~~], the 14-day deadline for requesting a hearing  
15 under Subsection (a) does not apply, and the owner or operator of  
16 the vehicle may deliver a written request for a hearing at any time.

17 SECTION 1.65. Section 2308.458, Occupations Code, is  
18 amended by amending Subsections (b), (c), and (e) and adding  
19 Subsections (c-2), (c-3), (f), and (g) to read as follows:

20 (b) The court shall notify the person who requested the  
21 hearing [~~for a towed vehicle~~], the parking facility owner or law  
22 enforcement agency that authorized the towing [~~removal~~] of the  
23 vehicle, the towing company, and the vehicle storage facility in  
24 which the vehicle was stored [~~placed~~] of the date, time, and place  
25 of the hearing in a manner provided by Rule 21a, Texas Rules of  
26 Civil Procedure. The notice of the hearing to the towing company  
27 and the parking facility owner or law enforcement agency that

authorized the towing ~~[removal]~~ of the vehicle must include a copy of the request for hearing, including any photographs, exhibits, schedules, or other evidence, attached to or included or filed with the request for hearing. Notice to the law enforcement agency that authorized the towing ~~[removal]~~ of the vehicle is sufficient as notice to the political subdivision in which the law enforcement agency is located.

(c) The only issues in a hearing regarding a towed vehicle under this chapter, at trial in a justice court or on appeal, are:

(1) whether probable cause existed for the towing ~~[removal and placement]~~ of the vehicle;

(2) whether a towing charge imposed or collected in connection with the towing ~~[removal or placement]~~ of the vehicle was ~~[greater than the amount]~~ authorized ~~[by the political subdivision]~~ under Section 2308.2065 ~~[2308.201 or 2308.202]~~; or

(3) whether a storage ~~[towing]~~ charge imposed or collected in connection with the storage ~~[removal or placement]~~ of the vehicle in a vehicle storage facility was authorized or was greater than the amount authorized under Chapter 2303 ~~[Section 2308.203, or~~

~~[(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.0575].~~

(c-2) In determining whether probable cause for the towing of a vehicle existed under Subsection (c)(1), the court shall consider the facts known to the tow operator at the time the vehicle was towed and stored in a vehicle storage facility.

1        (c-3) The court shall find that probable cause for the  
2 towing of a vehicle existed under Subsection (c)(1) if a vehicle was  
3 towed from the parking facility of a multiunit complex, as defined  
4 by Section 92.151, Property Code, where the vehicle was parked in  
5 violation of the parking rules or policies of the multiunit  
6 complex.

7        (e) The court may award, at trial in a justice court or on  
8 appeal, only:

9                (1) court costs [~~and attorney's fees~~] to the  
10 prevailing party;

11                (2) the reasonable cost of photographs submitted under  
12 Section 2308.456(b)(8) to a vehicle owner or operator who is the  
13 prevailing party;

14                (3) an amount equal to the amount by which [~~that~~] the  
15 towing or storage charge [~~or booting removal charge and associated~~  
16 ~~parking fees~~] exceeded fees regulated by a political subdivision or  
17 authorized by this code or by Chapter 2303; and

18                (4) reimbursement of fees paid for vehicle towing  
19 and [~~7~~] storage [~~7~~, ~~or removal of a boot~~].

20        (f) In a hearing under this chapter, in a justice court or on  
21 appeal, any issue of fact or law must be submitted to and determined  
22 by the court.

23        (g) In a hearing under this chapter, on appeal, the court  
24 may not consider an issue or claim that was not presented or award  
25 damages or relief that was not requested in justice court.

26        SECTION 1.66. Subchapter J, Chapter 2308, Occupations Code,  
27 is amended by adding Section 2308.4581 to read as follows:

1       Sec. 2308.4581. PAYMENT OF COST OF TOWING AND STORAGE OF  
2 VEHICLE. (a) If after a hearing held under this chapter the court  
3 finds that a person or law enforcement agency authorized, with  
4 probable cause, the towing and storage of a vehicle, the person who  
5 requested the hearing shall pay the costs of the towing and storage.

6       (b) If after a hearing held under this chapter the court  
7 does not find that a person or law enforcement agency authorized,  
8 with probable cause, the towing and storage of a vehicle, the towing  
9 company, vehicle storage facility, parking facility owner, or law  
10 enforcement agency that authorized the tow shall:

11               (1) pay the costs of the towing and storage; or

12               (2) reimburse the owner or operator for the cost of the  
13 towing and storage paid by the owner or operator.

14       (c) If after a hearing held under this chapter, regardless  
15 of whether the court finds that there was probable cause for the  
16 towing and storage of a vehicle, the court finds that the amount of  
17 a towing or storage charge collected was not authorized by Section  
18 2308.2065 or Chapter 2303, the towing company or vehicle storage  
19 facility as applicable shall reimburse the owner or operator of the  
20 vehicle an amount equal to the amount of the overcharge for towing  
21 or storage.

22       SECTION 1.67. Section [2308.459](#), Occupations Code, is  
23 amended to read as follows:

24       Sec. 2308.459. APPEAL. (a) An appeal from a hearing under  
25 this chapter is governed by the rules of procedure applicable to  
26 civil cases in justice court, except that no appeal bond may be  
27 required by the court.

1        (b) If the party requesting the hearing does not participate  
2 in the hearing, the party waives the right to an appeal under this  
3 section.

4        SECTION 1.68. Section 2308.505(a), Occupations Code, is  
5 amended to read as follows:

6        (a) A person commits an offense if the person:

7            (1) violates an ordinance, resolution, order, rule, or  
8 regulation of a political subdivision adopted under Section  
9 2308.201 or~~[7]~~ 2308.202~~[, or 2308.2085]~~ for which the political  
10 subdivision does not prescribe the penalty;

11            (2) charges or collects a fee in a political  
12 subdivision that regulates the operation of tow trucks under  
13 Section 2308.201 or 2308.202 ~~[or booting under Section 2308.2085]~~  
14 that is not authorized or is greater than the authorized amount of  
15 the fee;

16            (3) ~~[charges or collects a fee greater than the amount~~  
17 ~~authorized under Section 2308.204,~~

18            ~~[(4)]~~ charges or collects a fee in excess of the amount  
19 authorized ~~[filed with the department]~~ under Section 2308.2065  
20 ~~[2308.206];~~

21            (4) ~~[(5)]~~ violates Section 2308.205; or

22            (5) ~~[(6)]~~ violates a rule of the department applicable  
23 to a tow truck or~~[7]~~ towing company~~[, or booting company]~~.

24        SECTION 1.69. Section 503.096(a), Transportation Code, is  
25 amended to read as follows:

26        (a) If a person is engaged in business as a dealer in  
27 violation of Section 503.021, a peace officer may cause a vehicle



1 that is being offered for sale by the person to be towed from the  
2 location where the vehicle is being offered for sale and stored at a  
3 vehicle storage facility, as defined by Section 2303.002  
4 [~~2308.002~~], Occupations Code.

5 SECTION 1.70. Section 683.001(2), Transportation Code, is  
6 amended to read as follows:

7 (2) "Garagekeeper" means an owner or operator of a  
8 storage facility or vehicle storage facility.

9 SECTION 1.71. Section 683.003, Transportation Code, is  
10 amended by adding Subsection (c) to read as follows:

11 (c) To the extent of any conflict between this chapter and  
12 Subchapters D and E, Chapter 2303, Occupations Code, those  
13 subchapters control for a vehicle stored in a vehicle storage  
14 facility.

## 15 ARTICLE 2. REPEALER

16 SECTION 2.01. The following provisions of the Occupations  
17 Code are repealed:

- 18 (1) Sections 2303.056(c) and (d);
- 19 (2) Sections 2303.1015 and 2303.1016;
- 20 (3) Section 2303.161;
- 21 (4) Section 2308.002(7-a);
- 22 (5) Sections 2308.103, 2308.104, and 2308.105;
- 23 (6) Sections 2308.1521, 2308.153, 2308.154, 2308.155,
- 24 2308.1551, 2308.1555, and 2308.1556;
- 25 (7) Section 2308.253(g);
- 26 (8) Sections 2308.2555 and 2308.2565;
- 27 (9) Section 2308.451;

(10) Sections 2308.454 and 2308.455; and

(11) Sections 2308.458(b-2) and (c-1).

ARTICLE 3. TRANSITIONS; EFFECTIVE DATE

SECTION 3.01. (a) The changes in law made by this Act do not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

(b) An offense or other violation of law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

(c) On the effective date of this Act, a license or permit issued under former Section 2303.1015, 2303.1016, 2308.1521, 2308.1551, 2308.1555, or 2308.1556, Occupations Code, expires.

(d) Except as otherwise provided by this section, the changes in law made by this Act applicable to the storage of a vehicle by a vehicle storage facility under Chapter 2303, Occupations Code, as amended by this Act, apply only to a vehicle accepted for storage by a vehicle storage facility on or after the effective date of this Act. A vehicle accepted for storage by a vehicle storage facility before the effective date of this Act is governed by the law in effect at the time the vehicle was accepted, and the former law is continued in effect for that purpose.

(e) Except as otherwise provided by this section, the changes in law made by this Act applicable to the towing or booting

1 of a vehicle under Chapter 2308, Occupations Code, as amended by  
2 this Act, apply only to the towing or booting of a vehicle initiated  
3 on or after the effective date of this Act. The towing or booting of  
4 a vehicle initiated before the effective date of this Act is  
5 governed by the law in effect at the time the towing or booting was  
6 initiated, and the former law is continued in effect for that  
7 purpose.

8 (f) Sections 2303.004 and 2308.005, Occupations Code, as  
9 added by this Act, apply only to a conflict between Chapter 2303 or  
10 2308, Occupations Code, and a contract that arises on or after the  
11 effective date of this Act. A conflict that arises before the  
12 effective date of this Act is governed by the law in effect  
13 immediately before the effective date of this Act, and the former  
14 law is continued in effect for that purpose.

15 (g) Sections 2303.157(b), Occupations Code, as amended by  
16 this Act, and 2303.157(b-1), Occupations Code, as added by this  
17 Act, apply only to an abandoned vehicle purchased on or after the  
18 effective date of this Act. An abandoned vehicle purchased before  
19 the effective date of this Act is governed by the law in effect on  
20 the date the vehicle was purchased, and the former law is continued  
21 in effect for that purpose.

22 (h) The changes in law made by this Act to Section  
23 2308.051(a), Occupations Code, regarding the qualifications for a  
24 member of the Towing and Storage Advisory Board do not affect the  
25 entitlement of a member serving on the board immediately before the  
26 effective date of this Act to continue to serve and function as a  
27 member of the board for the remainder of the member's term. When

1 board vacancies occur on or after the effective date of this Act,  
2 the presiding officer of the Texas Commission of Licensing and  
3 Regulation shall appoint new members to the board in a manner that  
4 reflects the changes in law made by this Act.

5 (i) Section 2308.156(b), Occupations Code, as added by this  
6 Act, applies only to the transfer of a license due to the death or  
7 disability of a license holder on or after the effective date of  
8 this Act. The transfer of a license due to the death or disability  
9 of a license holder before the effective date of this Act is  
10 governed by the law in effect on the date the license holder dies or  
11 becomes disabled, and the former law is continued in effect for that  
12 purpose.

13 (j) The changes in law made by this Act to Section 2308.255,  
14 Occupations Code, do not apply to the booting of a vehicle under a  
15 standing written agreement between a booting company and a parking  
16 facility owner entered into before the effective date of this Act.  
17 The booting of a vehicle under a standing written agreement entered  
18 into before the effective date of this Act is governed by the law as  
19 it existed immediately before the effective date of this Act, and  
20 that law is continued in effect for that purpose.

21 SECTION 3.02. This Act takes effect September 1, 2017.